IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.633 of 2006

Shanthi ... Petitioner

vs.

1. The Secretary to Government,
Prohibition and Excise Department,
Secretariat,
Chennai-9.

2. The Commissioner of Police,
Greater Chennai. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 06.04.2006 in Memo No.108 BDFGISV/2006, against the petitioner's husband Nakkeran S/o Beeman, aged about 39 years, who is confined at Central Prison, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Parthiban

For Respondents : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner is the wife of the detenu by name Nakkeeran. She challenges the impugned order of detention dated 06.04.2006, detaining her husband as "Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was delay in disposal of the representation of the detenu, which ultimately vitiates the impugned order of detention.

4. With reference to the said contention, learned Additional Public Prosecutor has placed the details, which show that the representation, dated 03.05.2006, of the detenu was received by the Government on 04.05.2006; Remarks were called for on 05.05.2006 and received on 09.05.2006. Thereafter, the File was submitted and dealt with by the Under Secretary and Deputy Secretary on 10.05.2006. However, the Minster for Prohibition and Excise passed orders only on 23.05.2006. Rejection Letter was prepared on 24.05.2006 and sent to the detenu on the same day i.e. 24.05.2006 and served to him on 25.05.2006. As rightly pointed out, though the Under Secretary and the Deputy Secretary dealt with the File even on 10.05.2006, the same was disposed of by the Minister concerned only on 23.05.2006. We are of the view that the the delay occurred due to the placidity between 10.05.2006 and 23.05.2006 is on the higher side, which vitiates the ultimate detention order.

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5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Govt., Prohibition & Excise Dept., Chennai-9.
2. The Commissioner of Police,Greater Chennai.
3. The Superintendent, Central Prison, Chennai (in duplicate for communication to the detenu).
4. The Secretary, Public (Law & Order) Dept., Chennai-9.
5. The Public Prosecutor, High Court, Madras.

SGL(CO)
NM(14.09.2006)

HCP. No.633 of 2006.

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